

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 440**

Introduced by Byars, 30

Read first time January 9, 2001

Committee: Health and Human Services

A BILL

- 1 FOR AN ACT relating to health care; to adopt the Mail Order Contact
- 2                   Lens Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1.     Sections 1 to 7 of this act shall be known  
2 and may be cited as the Mail Order Contact Lens Act.

3           Sec. 2.   For purposes of the Mail Order Contact Lens Act:

4           (1) Contact lens prescription means a written order  
5 bearing the original signature of an optometrist or physician or an  
6 oral or electromagnetic order issued by an optometrist or physician  
7 that authorizes the dispensing of contact lenses to a patient and  
8 meets the requirements of section 3 of this act;

9           (2) Department means the Department of Health and Human  
10 Services Regulation and Licensure;

11          (3) Mail-order ophthalmic provider means an entity that  
12 ships, mails, or in any manner delivers dispensed contact lenses to  
13 Nebraska residents;

14          (4) Optometrist means a person licensed to practice  
15 optometry pursuant to sections 71-1,133 to 71-1,136.09; and

16          (5) Physician means a person licensed to practice  
17 medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14.

18          Sec. 3.   A mail-order ophthalmic provider may dispense  
19 contact lenses in Nebraska or to a Nebraska resident if the contact  
20 lens prescription is valid. Such prescription is valid if it (1)  
21 contains the patient's name, date ordered, expiration date,  
22 authorized number of lenses and refills, instructions for use,  
23 optometrist or physician identifying information, date of patient's  
24 last examination, fabrication, and related information, and (2) has  
25 not expired. Each contact lens prescription shall be valid for the  
26 duration of the prescription as indicated by the optometrist or  
27 physician or for a period of twelve months from the date of  
28 issuance, whichever period expires first.

1           Sec. 4. The department shall require and provide for an  
2 annual registration for all mail-order ophthalmic providers located  
3 outside of this state, including those providing services via the  
4 Internet, that dispense contact lenses to Nebraska residents. The  
5 department shall grant mail-order ophthalmic provider's  
6 registration upon the disclosure and certification by such provider  
7 of the following:

8           (1) That it is licensed or registered to dispense contact  
9 lenses in the state where the dispensing facility is located and  
10 from where the contact lenses are dispensed, if required;

11           (2) The location, names, and titles of all principal  
12 corporate officers and the person who is responsible for overseeing  
13 the dispensing of contact lenses to Nebraska residents;

14           (3) That it complies with directions and appropriate  
15 requests for information from the regulating agency of each state  
16 where it is licensed or registered;

17           (4) That it will respond directly and within a reasonable  
18 period of time to all communications from the department concerning  
19 emergency circumstances arising from the dispensing of contact  
20 lenses to Nebraska residents;

21           (5) That it maintains its records of contact lenses  
22 dispensed to Nebraska residents so that such records are readily  
23 retrievable;

24           (6) That it will cooperate with the department in  
25 providing information to the regulatory agency of any state where  
26 it is licensed or registered concerning matters related to the  
27 dispensing of contact lenses to Nebraska residents;

28           (7) That it conducts business in a manner that conforms

1 to the requirements of section 3 of this act;

2 (8) That it provides a toll-free telephone service for  
3 responding to patient questions and complaints during its regular  
4 hours of operation and agrees to (a) include the toll-free number  
5 in literature provided with mailed contact lenses and (b) refer all  
6 questions relating to eye care for the lenses prescribed back to  
7 the contact lens prescriber; and

8 (9) That it provides the following, or substantially  
9 equivalent, written notification to the patient whenever contact  
10 lenses are supplied:

11 WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING  
12 SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE  
13 PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE  
14 DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS.

15 Sec. 5. The mail-order ophthalmic provider shall pay a  
16 fee equivalent to the annual fee for an initial or renewal permit  
17 to operate a pharmacy in Nebraska as established in and at the  
18 times provided for in section 71-1,147.07 prior to January 1, 2002,  
19 and in the Health Care Facility Licensure Act on and after January  
20 1, 2002. Such fees shall be remitted to the State Treasurer for  
21 credit to the Nebraska Pharmaceutical Fund prior to January 1,  
22 2002, and to the Department of Health and Human Services Regulation  
23 and Licensure Cash Fund on and after January 1, 2002.

24 Sec. 6. The department, upon the recommendation of the  
25 Board of Pharmacy, the Board of Optometry, or the Board of Medicine  
26 and Surgery, shall notify the Attorney General of any possible  
27 violations of the Mail Order Contact Lens Act. If the Attorney  
28 General has reason to believe that an out-of-state person is

1 operating in violation of the act, the Attorney General shall  
2 commence an action in the district court of Lancaster County to  
3 enjoin such person from further mailing, shipping, or otherwise  
4 delivering contact lenses into Nebraska.

5           Sec. 7. The department, upon the joint recommendation of  
6 the Board of Pharmacy, Board of Optometry, and Board of Medicine  
7 and Surgery, may adopt and promulgate rules and regulations for  
8 enforcement of the Mail Order Contact Lens Act.